



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

ROLLINSFORD PATROLMAN'S UNIT :

Complainant :

v. :

TOWN OF ROLLINSFORD :

Respondent :

CASE NO. P-0745:1

DECISION NO. 90-24

APPEARANCES

Representing Rollinsford Patrolman's Unit:

William P. Briggs, Esq., Counsel

Representing Town of Rollinsford:

Bradley F. Kidder, Esq., Counsel

Also appearing:

David Cobban, Patrolman
Robert Ducharme, Patrolman
Edmund F. Jansen, Jr., Selectman

BACKGROUND

On February 8, 1989, Rollinsford Patrolman's Unit by its counsel William P. Briggs, Esq., filed an ULP charge against the Town of Rollinsford alleging four areas of improper practice summarized as follows:

1. The Town's unilateral proposal to reduce the number of permanent police employees from 11 to 6, such reduction would prevent the Police Association from meeting the minimum number of positions (10) required to form a bargaining unit under 273-A.
2. The Town's refusal to reemploy David L. Cobban as a permanent part-time police officer because of his involvement in organizing the Rollinsford Police Unit, such activities violate 273-A:5 I(c), (d) & (g).
3. The Selectmen's refusal to fill a permanent part-time position in the Police Department; pending result of the appeal of the certification of the bargaining unit, in an attempt to further reduce the number of eligible positions required to form a bargaining unit.

4. The Town, although notified by the police unit of its desire to negotiate has refused to meet for the purpose of negotiations.

Hearing in this matter was held on April 13, 1989 at the PELRB office in Concord, New Hampshire.

At the opening of the hearing PELRB ruled that charge No. 1 was premature on the basis that specific action on the budget committee recommendations had not been finalized. Charge number 3 and 4 were withdrawn by Counsel for the Police Unit.

The remaining charge to be disposed of at the hearing is No. 2. "The town's refusal to re-employ David L. Cobban as a permanent part-time police officer because of his involvement in organizing the police unit." Atty. Kidder for the Town denied the charge stating that the Town had an absolute right to reduce its force, and that the selection and direction of its personnel is within management rights.

Testimony was presented by several witnesses including Officer Cobban on training, performance of duties, duration of employment, attempts by Sgt. Ducharme to hire Cobban as a part-time officer after he left the department as a full-time officer., etc...

The selectmen said no action would be taken pending the outcome of litigation. History of the hiring freeze action was also presented.

Selectman Edmund Jansen testified on the hiring freeze and attempts to organize the Police Unit, his feelings that the unit did not qualify for a bargaining unit, and that the hiring freeze applied only to the Police Department and not other municipal departments. Also, that previous attempts to organize the unit were not taken seriously and he was "utterly dismayed that someone thought they met the requirements for organizing under 273-A" as he was, "well aware for many years that the magic number was 10," the requirement under RSA 273-A:8, I.

FINDINGS OF FACT

After considering all the testimony presented by the selectmen, the complainant, other Police Department officers and all exhibits, PELRB finds as follows:

- A. The hiring freeze was instituted only for the Police Department and not other town agencies, such action taken because of pending court action with respect to the formation of a bargaining unit.
- B. The Town and its Board of Selectmen singled out Officer Cobban for his action in connection with the organization of the patrolman's unit and refused to rehire him on a part-time basis.
- C. Officer Cobban's excellent qualifications, training and employment record with the town was unchallenged and he could only be described as a thoroughly capable and efficient police officer with a proven record.

ORDER

The Board finds the Town of Rollinsford guilty of an unfair labor practice in violation of RSA 273-A:5, I (c), (d) and (g) and further ORDERS the Town give Officer Cobban the first opportunity of employment as a part-time police officer whenever the first vacancy occurs.

Signed this 2nd day of April, 1990.


EDWARD J. HASELTINE
Chairman

By unanimous vote. Chairman Edward J. Haseltine presiding. Members James C. Anderson and Seymour Osman present and voting. Also present, Executive Director, Evelyn C. LeBrun.